REMARKS

I. Claim Rejections

Claims 1 and 3 are rejected as being obvious from Norton (2004/0225327) in view of Kuehn (US 5,201,865). In addition, claims 2 and 4-31 are rejected as being obvious over Norton and Kuehn, as applied to claims 1 and 3, and further in view of Kroll (US 5,925,068). Applicants respectfully traverse.

Norton teaches a method of reforming a capacitor using a specific reforming charge cycle. Capacitors of implantable defibrillators must be reformed due to the deformation of the defibrillation capacitors due to capacitor deformation that affects the ability of the capacitors to charge and effectively store charge. Capacitor deformation generally lengthens the amount of time that it takes to charge the capacitors and may reduce the ability of the capacitors to store the charge. Norton concerns a capacitor reformation technique that is performed periodically in order to reform the defibrillation capacitor of an implantable defibrillator following extended periods of inactivity. The Norton reformation process begins when the system identifies a time to initiate the reformation cycle of the capacitor. (See, e.g., paragraph [0055] and Fig. 6.) As is conventionally done, the Norton reformation process is programmed within the defibrillator device to occur at defined intervals. The present invention concerns a technique -- not for reformation of the capacitors, but for use by the system in identifying when a reformation process, such as that of Norton, is to be initiated. Therefore, the office action is in error when, on page 3, the contention is made that Norton discloses the claimed invention.

Kuehn concerns the measurement of defibrillator lead impedance through selective partial discharge of the high voltage capacitors. The analysis circuitry to measure lead impedance is periodically activated. The analysis circuitry calculates lead impedance as a function of the capacitor discharge time through a precision resistor between first and second reference voltages. Kuehn has nothing to do with capacitor reformation. Moreover, like Norton, Kuehn does not

concern a determination of capacitor deformation for use in establishing time for capacitor reformation cycling. Again, in seeking to combine Norton and Kuehn, the office action mischaracterizes Norton as teaching a determination of capacitor deformation factor.

Because Norton and Kuehn are improperly characterized and applied to claims 1 and 3, it follows that the application of them as to claims 2 and 4-31 is similarly flawed. As such, the rejection of claims 2 and 4-31 based on a combination that includes Norton and Kuehn as applied to claims 1 and 3 necessarily fails and should be with withdrawn. Furthermore, Kroll also fails to provide any relevant teachings. Kroll concerns a determination as to a recommended time to replace a pulse generator due to battery depletion. Kroll concerns measurement of battery strength and teaches its use as an indicator of when to replace the device. Although Kroll teaches to make measurements of capacitor charge time during capacitor reformation, Kroll nowhere suggests the generation of a capacitor deformation factor as a ratio of the second charge interval to the ideal charge time.

II. Conclusion

Applicants submit that, in view of the remarks made herein, all pending claims are allowable over Norton, Kuehn and Kroll, taken either alone or in combination. Applicants therefore submit that all claims are in condition for allowance and respectfully requests that a notice of allowance be issued in due course.

Respectfully submitted,

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